



Department of Planning, Building and Code Enforcement
JOSEPH HORWEDEL, DIRECTOR

SUMMARY ABATEMENT ORDER AND NOTICE OF HEARING

**ROMAN & MARIA GARCIA
JOE & ELENA GARCIA
135 OAKLAND AVE
SAN JOSE, CA 95116**

RE: 135 Oakland Avenue, San Jose, CA 95116

APN: 481-19-072

AGENDA ITEM:	4e
HEARING DATE	March 28, 2013
HEARING TIME:	6:30 p.m.
HEARING PLACE:	City Hall, Council Chambers 200 E Santa Clara Street San Jose, CA 95113

TO THE PROPERTY OWNER AND ALL OTHER PERSONS HAVING ANY LEGAL INTEREST IN THE ABOVE DESCRIBED PROPERTY LOCATED IN THE CITY OF SAN JOSE:

Please be advised that after inspections of the above described property by field investigators of the Code Enforcement Division, it has been determined that the property was found to be imminently dangerous based on the following conditions: the overgrown vegetation in the front yard presented a fire hazard and an attraction for vector and was growing into the public right of way. In order to abate the imminent danger, Code Enforcement Division found it necessary to have the overgrown vegetation cut and removed from the front yard to remove the fire hazard and the attraction for vector and remove the obstruction from the public right of way.

The costs of the abatement actions, including the total cost of the actions taken and any allowable inspection fees, will be invoiced to the property owner. The invoice shall be paid within 30 days from the date that the invoice is mailed. Failure to pay the invoice amount may result in the imposition of an assessment and a lien against the property in accordance with San Jose Municipal Code Section 17.02.350.

Any person having any record, title or legal interest in the property may appear and protest the abatement action taken as identified in this Notice of Hearing at the time and place specified above. Please be advised that pursuant to San Jose Municipal Code Section 17.02.120, the City Manager may file in the Office of the County Recorder a certificate declaring the property a Public Nuisance. Failure to file a written protest prior to the hearing date or to appear at such hearing will constitute a failure to exhaust the administrative remedies.

Should you have any questions regarding this matter, please contact Tony Gonzalez, Code Enforcement Inspector, at (408) 535-7655.

Diane Buchanan, Acting Code Enforcement Official
Planning, Building and Code Enforcement

Enclosures

**OWNER: Ramon & Maria Garcia
Joe & Elena Garcia
135 Oakland Avenue
San Jose, CA 95116**

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INSPECTION REPORT

Status of Property

The single-family residence located at 135 Oakland Avenue, San Jose, CA 95116 ("Subject Property") is vacant. As part of this Summary Abatement, the overgrown vegetation in the front yard has been cut and properly disposed of to prevent a fire hazard, to remove the attraction for vector and to remove the obstruction from the public right of way.

San Jose Municipal Code Violations

17.72.030 Prohibition of property blight

- A. No person, whether as owner, agent, manager, operator, lessee, tenant, sub-lessee, or occupant in possession of a property, shall maintain a blighted property or cause or permit property to be maintained as a blighted property.
- B. No person, whether as owner, agent, manager, operator, lessee, sub-lessee, tenant or occupant of a property, shall take any action or allow any action to be taken at that property in violation of any provision of this chapter or any order issued pursuant to the provisions of this chapter.

17.72.040 General conditions.

The presence of any one or more of the following conditions on property constitutes property blight:

- A. Any condition that is detrimental to the public health, safety or general welfare or that constitutes a public nuisance as defined in California Civil Code Section 3480
- B. Any condition of deterioration or disrepair that creates a substantial adverse impact on neighboring properties.

California Civil Code section 3480 provides: A public nuisance is one which affects at the same time an entire community or neighborhood or any considerable

number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal.

17.72.525 Exterior Property Conditions

The existence of any one or more of the following exterior property conditions constitutes property blight:

- A. The property contains overgrown, diseased, dead or decayed trees, weeds or other vegetation that:
- Constitutes a fire hazard or other condition that is dangerous to the public health, safety, welfare; or
 - Creates the potential for harboring of rats, vermin, vector, or other similar nuisances; or
 - Substantially detracts from the aesthetic and property values of neighboring properties; or
 - Is overgrown onto a public right-of-way at least twelve inches; or
 - Is completely dead, over twelve inches in height, and covers more than fifty percent of the front or side yard visible from any street.
- B. The property fails to comply with applicable development permit requirements with respect to any landscaping requirements.

The overgrown vegetation in the front yard was causing a fire hazard to the Subject Property, providing an attraction for vector and causing an obstruction to the public right of way.

Chronology

02/14/13 Inspector Gonzalez conducted an inspection of the Subject Property. Inspector Gonzalez found the home was vacant and secured. Inspector Gonzalez observed overgrown vegetation in the front yard approximately four (4) feet tall. One (1) photograph was taken of the Subject Property. See true and correct photographs attached hereto as **EXHIBIT A**.

On this same day, Inspector Gonzalez researched the Santa Clara County Assessor records and the Santa Clara County Records records and confirmed that the property is owned by Ramon, Maria, Joe and Elena Garcia ("Property Owner"), and the mailing address on record is 135 Oakland Avenue, San Jose, CA 95116.

On this same day, Inspector Gonzalez attempted to contact the Property Owner of record but was not successful in locating a contact phone number or address.

On this same day, Inspector Gonzalez recommended to Code Enforcement management that the Subject Property should be abated to correct the health and safety hazards.

On this same day, Inspector Gonzalez received approval from Code Enforcement management to proceed with the clean-up of the Subject Property to correct the health and safety hazards.

On this same day, Inspector Gonzalez contacted the City of San Jose contractor, "GreenWaste Company", to schedule an appointment to remove all overgrown vegetation from the front yard.


02/18/13 On this day, GreenWaste Company performed the clean-up of the Subject Property. The contractor cut, removed and properly disposed of all overgrown vegetation from the front yard. One (1) photograph was taken of the Subject Property. See true and correct photographs attached hereto as **EXHIBIT B**.

CODE ENFORCEMENT STAFF RECOMMENDATIONS

Staff recommends that the San Jose Appeals Hearing Board uphold the abatement actions taken by the City of San Jose to clean and remove all hazards at the Subject Property.

ATTESTING STATEMENT OF CODE ENFORCEMENT INSPECTOR

1. I am the Code Enforcement Inspector for the City of San Jose assigned to investigate the potential Municipal Code Violations at 135 Oakland Avenue, San Jose, CA 95116, that are the subject of this Inspection Report.
2. I have prepared and reviewed this Inspection Report and can attest to the truth of the matters stated above.



Tony Gonzalez, 059E
Code Enforcement Inspector II

Exhibit A

135 Oakland Ave.

February 14, 2013

Front yard – overgrown vegetation



Exhibit B

135 Oakland Ave.

February 18, 2013

Front yard – Note: Picture taken 2/21/13

